THE HON'BLE SRI JUSTICE GODA RAGHURAM

AND

THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY

WRIT PETITION No.9802 of 2006

Dated 09-05-2006

Between:

M/s TSSR Brass Tech.(P)Ltd.,Hyderabad.

..Petitioner

And

The Assistant Commercial Tax Officer,

Chittoor, and another.

..Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

AND

THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY

WRIT PETITION No.9802 of 2006

O R D E R: (Per **GR,J**)

Petitioner's lorry bearing No.TN 01 K 2376 along with a consignment of 9500 metric tons of rice bran oil (edible) was intercepted, checked and detained by the first respondent on 24-04-2006 at Muthirevula village, Chittoor. A seizure-cum-confiscation notice dated 25-04-2006 has been issued by the first respondent alleging transportation of rice bran oil on 23-04-2006, in substance, by using an earlier delivery challan dated 15-04-2006 which was overwritten to read 23-04-2006. The petitioner is offered the facility, by the first respondent to get the goods released pending determination of proceedings for confiscation of the goods, by furnishing a bank guarantee to a tune of Rs.3,80,000/- equivalent to the value of the entire goods under detention.

In this writ petition, the petitioner states that all the documents did initially bear the date 15-04-2006 but there was no different consignment transported on 15-04-2006 and as per the documents. On account of some mechanical problem to the vehicle when it reached Salem, the date on the documents was legitimately

reauthenticated as 23-04-2006 and therefore the allegations on the basis of which the seizure-cum-confiscation show-cause notice has been issued are substantially unfounded.

The determination of these factual disputes is not appropriate under Article 226 of the Constitution of India and at this stage of the matter. What is issued is merely a show-cause notice and the substantial determination is still pending. Admittedly among the spectrum of determinations that could be made by the first respondent is confiscation of the goods and the transporting vehicle. Therefore, the order impugned insofar as it permits the petitioner the facility of release of the goods pending determination on furnishing a bank guarantee for the entire value of the goods i.e., Rs.3,10,000/- is not perverse, warranting interference. No case is made out.

The writ petition is dismissed. The petitioner may furnish the bank guarantee as per the impugned order and obtain release of the goods. No costs.

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GODA RAGHURAM

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M. VENKATESWARA REDDY

Dated 09-05-2006

ghn/kvni